

REMARKS

Applicants respectfully request the Examiner to reconsider the present application in view of the foregoing supplemental amendments to the claims and the following comments.

Status of the Claims

In the present Amendment, claims 1, 16, 18, 20, 27, 28, 30, 31, 32, 33 and 34 have been amended. Claims 2-7, 9-12 and 21-26 were previously canceled without prejudice or disclaimer of the subject matter therein. Also, claims 1, 8, 13-20, 27, 29-34, 37, 39-41, 43 and 44 are indicated to be allowable. Further, claims 28 and 42 are objected to, but have indicated allowable subject matter (see page 3 of the outstanding Office Action). Thus, claims 1, 8, 13-20, 27-34, 37 and 39-44 are pending in the present application.

No new matter has been added by way of these amendments. The changes to the claims are in response to a recent Interview between the Patent Examiner and Applicants' representative, and are explained in more detail below.

The amendment to the present specification does not add new matter (please refer to the explanation below regarding "Proxel").

Based upon the above considerations, entry of the present amendment is respectfully requested.

In view of the following remarks, Applicants respectfully request that the Examiner allow the currently pending claims. All rejections/objections have been fully addressed in the previous response dated April 17, 2007. This supplemental response addresses the Examiner's concerns as stated during the recent Interview.

Interview

An Interview was conducted between Examiner Pryor and Applicants' representative (Eugene Perez) on June 7, 2007. During this Interview, the Examiner indicated that the claims may be allowable but certain issues would have to be first resolved. Specifically, the following issues were discussed:

- Issue #1: The Examiner indicates there is experimental data showing unexpected results for the ester and glycosidic linkages but not for the claimed "amide linkage."
- Issue #2: It appears that the claim language in some of the claims of "a germicide, fungicide and preservative (F)" should be replaced with "a germicide, fungicide or preservative (F)".
- Issue #3: Table 11 on page 29 of the specification shows unexpected results for the component (F) of the germicide and fungicide, but there appears to be a lack of data with respect to the preservative (F).
- Issue #4: The Examiner desires for the concentration for component (A) to be recited in claims 31 and 32.

These issues are addressed respectively below.

Issue #1:

During the Interview, the Examiner also specifically referred to Table 1, page 15 of the specification showing, e.g., decyl poly polyglycoside and sorbitan fatty acid ester, as corresponding to the ester and glycosidic linkages, and asserts there is a lack of sufficient data

for the instantly claimed “amide linkage.” Also, the Examiner referred to page 15 of the present specification wherein there is some data for the amide linkage but with the component is in further combination with a sugar (“sugar-based”).

Applicants note that the disputed claims require the following of component (A): “wherein said surfactant has a sugar structure or a sugar alcohol structure”. Thus, all components (A) having the amide linkage between the hydrophobic group and sugar/sugar alcohol are going to be “sugar-based”.

Though there has not been any prior art rejection to date regarding the “amide linkage,” Applicants herein submit a Declaration pursuant to 37 C.F.R. § 1.132 signed by co-inventor Tadayuki SUZUKI. As can be seen, component (A) with the amide linkage is tested with each of components (B)-(F). Applicants also note that the tested component (F) is Proxel, which is a preservative (as explained in Issue #3 below). Unexpected results are shown for the claimed invention.

Further, Applicants herein submit copies of Tables 24 and 25 from the previously filed Declaration under 37 C.F.R. § 1.132 (filed on March 26, 2003). Table 24 shows testing of component (A) of the “sugar-based fatty acid amide” with component (C) of “Gibberellin (GA3).” Table 25 shows testing of component (A) with component (F) of “Proxel.” Unexpected results are also shown for the claimed invention in these Tables. Applicants note the comparative examples in these Tables, which can also be compared to the inventive examples in the herein attached Rule 132 Declaration.

Accordingly, Applicants respectfully submit unexpected results exist for the present invention for component (A) with just one of each of the components (B)-(F). There is

experimental data showing unexpected results for the ester, glycosidic and amide linkages as instantly claimed. Therefore, this issue has been resolved

Issue #2:

Applicants respectfully refer the Examiner to the changes as presented herein. Amendments have to be made to claims 1, 16, 18, 20, 27, 28, 30, 31, 32, 33 and 34 by replacing “and” with “or.” Accordingly, this issue has been resolved.

Issue #3:

During the Interview, the Examiner referred Applicants to Table 11 on page 29 of the specification. The Examiner was concerned that Table 11 shows unexpected results for the component (F) of the germicide and fungicide only (and not for the “preservative”). However, Applicants herein confirm that “Proxel” represents the instantly claimed “preservative” as component (F). Furthermore, Table 11 shows Inventive Examples 60, 63, and 67 that use Proxel. Thus, there does exist unexpected results for the claimed “preservative.” Applicants note the change to the heading of Table 11 (see the amendment to the present specification herein), as the experimental data does refer to all three of the germicide, fungicide and preservative. Therefore, this issue has been resolved.

Issue #4:

The Examiner desires for the **concentration or amounts** for component (A) to be recited in claims 31 and 32. Applicants respectfully refer the Examiner to changes to these claims as

presented herein. Thus, this issue has been resolved.

Conclusion

Applicants have taken substantial steps in advancing prosecution of this case, and a full and complete response has been made to all issues as cited in the Office Action. Thus, Applicants respectfully request that a timely Notice of Allowance issue for the present case.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Eugene T. Perez (Reg. No. 48,501) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: JUN 21 2007

Respectfully submitted,

By 

John W. Bailey

Registration No.: 32,881

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road, Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant

Attachments: Declaration pursuant to 37 C.F.R. § 1.132

Copy of Table 24 from previously filed Declaration under 37 C.F.R. § 1.132

Copy of Table 25 from previously filed Declaration under 37 C.F.R. § 1.132